



STATE OF NEW JERSEY

In the Matter of Patrick Farrell, Jr.,
Fire Fighter (M1544T), Jersey City

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2019-30

List Removal Appeal

ISSUED: NOVEMBER 26, 2018 (SLK)

Patrick Farrell, Jr., represented by Michael L. Prigoff, Esq. appeals his removal from the eligible list for Fire Fighter (M1544T), Jersey City on the basis that he falsified his application.

The appellant took the open competitive examination for Fire Fighter (M1544T), achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant falsified his application.

On appeal, the appellant requested copies of all documents upon which the appointing authority relied upon to request his removal. Further, he stated that upon receipt of this material, he reserved the right to respond. By letter dated August 8, 2018, the appointing authority provided a copy of its background report to the appellant's counsel.

In response, the appointing authority, represented by James B. Johnston, Assistant Corporation Counsel, submits the appointing authority's background report. The background report indicates that the appellant should be removed from the list due to falsification, an unsatisfactory background report, and an unsatisfactory driving record. Specifically, the appellant failed to list a residence in Cranford, New Jersey from January 2013 that appeared on his Motor Vehicle Commission's residential address change history as he only listed prior Jersey City

addresses. The background report also indicated that since 2007, the appellant's driver's license was suspended twice, he accumulated 19 motor vehicle convictions which totaled 18 motor vehicle points, he currently has six motor vehicle points, and he received five motor vehicle convictions after the August 31, 2015 closing date, including 2017 convictions for no license/registration/insurance and for delaying traffic. The appointing authority argues that the appellant's background shows a clear pattern of disregard for the law and a current lack of maturity that makes him unfit to be a Fire Fighter.

Although given the opportunity and provided a copy of the appointing authority's background report by letter dated August 8, 2018, the appellant did not respond.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the Civil Service Commission (Commission) to remove an eligible's name from an employment list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process.

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment.

N.J.A.C. 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

In the instant matter, the appointing authority properly removed the appellant's name from the subject list. Although the appointing authority provided the appellant's counsel copies of the documentation it utilized in support of its request to remove his name from the list, the appellant has not presented any argument or information to demonstrate that the decision to remove his name was in error. Therefore, the appellant has not sustained his burden of proof and his appeal is denied on that basis alone.

Regardless, the appointing authority had a valid reason to remove the appellant's name based on his failure to disclose his prior Cranford, New Jersey address. The Appellate Division of the New Jersey Superior Court, in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on his falsification of his

employment application and noted that the primary inquiry in such a case is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. Therefore, even if there was no intent to deceive, at minimum, the appointing authority needed this information to have a complete understanding of the appellant's background in order to properly evaluate his candidacy. *In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017). Additionally, the appellant has presented no argument that a driver's license is not essential for this position and the appellant's numerous motor vehicle violations, including after the closing date, is relevant to the position sought, as such conduct is indicative of the appellant's exercise of poor judgment, which is not conducive to the performance of duties of a Fire Fighter. *See In the Matter of William Bryant, Jr.* (MSB, decided July 25, 2000). Firefighters are not only entrusted with the duty to fight fire; they must also be able to work with the general public and other municipal employees, especially police officers, because the police department responds to every emergency fire call. Any conduct jeopardizing an excellent working relationship places at risk the citizens of the municipality as well as the men and women of those departments who place their lives on the line on a daily basis. An almost symbiotic relationship exists between the fire and police departments at a fire. *See Karins v. City of Atlantic City*, 152 N.J. 532, 552 (1998).

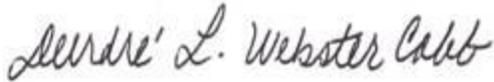
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Fire Fighter (M1544T), Jersey City eligible list.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 21st DAY OF NOVEMBER, 2018



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Patrick Farrell
Michael L. Prigoff, Esq.
Robert Kakoleski
James B. Johnston, Assistant Corporation Counsel
Kelly Glenn